

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF ST. PAUL

In the Matter of the License Application
of Saint Paul Firearms Company for a
Firearms License

SECOND PREHEARING ORDER

A prehearing conference telephone call was held on Thursday, December 3, 1998.

Participating in the telephone call was Joseph A. Rymanowski, Jr., Suite 201, 4105 North Lexington Avenue, Arden Hills, Minnesota 55126. Participating on behalf of the Hamline-Midway Neighborhood Stability Coalition, Intervenor herein, were Kathleen Winters, Attorney at Law, 1483 Breda Avenue, St. Paul, Minnesota 55108, and Laura Melnick, Attorney at Law, 1697 Englewood Avenue, St. Paul, Minnesota 55104. Appearing on behalf of the City of St. Paul was Assistant City Attorney Virginia D. Palmer, 400 City Hall, 15 West Kellogg Boulevard, St. Paul, Minnesota 55102.

Based upon all of the files and proceedings herein, the Administrative Law Judge makes the following:

ORDER

That Applicant's request for an indefinite continuance pending the outcome of a district court proceeding is DENIED, and the hearing will go forward as scheduled on December 10.

Dated this 8th day of December, 1998.

ALLAN W. KLEIN
Administrative Law Judge

MEMORANDUM

Applicant has filed a petition for an alternative writ of mandamus with the Ramsey County District Court. Applicant seeks a license from the City based upon the City's failure to comply with the time limitations contained in Minn. Stat. § 15.99. A hearing on that issue is presently scheduled for December 24, 1998.

Immediately prior to filing that petition, Applicant provided a copy to the Administrative Law Judge along with a request for an indefinite continuance of the administrative hearing presently scheduled for December 10. Applicant arranged a prehearing conference telephone call for the following day so that all parties would have an opportunity to be heard on the requested continuance.

On December 3, a prehearing conference telephone call was held. Applicant explained that he was concerned that going forward with the hearing on December 10 might be deemed some sort of an extension within the meaning of section 15.99, and that Applicant opposed any such extension. Applicant did not want his going forward with the administrative hearing to be any sort of a waiver or relinquishment of any rights he may have under section 15.99.

All other parties opposed the extension. Intervenor argued that the district court decision on Applicant's petition could be the subject of appeals, and that if the administrative hearing were delayed until those were exhausted, it could be a long time. Intervenor feared that facts which it desired to prove at this proceeding might well be stale by then. Intervenor argued that the petition could have been filed much earlier, and that Applicant should not benefit by its delay.

The City also opposed the request for a continuance, indicating that back in July, Applicant had raised the section 15.99 issue, and the City had responded. The City argued that there was no reason for delaying until the eve of the administrative hearing in order to file the petition.

Having heard the arguments from the various parties, the Administrative Law Judge indicated that the request for an indefinite continuance would be denied. Denial was based upon the standards set forth in Minn. Rule pt. 1400.7500, as well as the case law developed over the years, both in this jurisdiction and elsewhere. In the recently issued second edition of Beck, Minnesota Administrative Procedure (Minneapolis, 1998), sections 7.1.3 and 7.1.4 discuss continuances and stays. Under the circumstances presented by Applicant's request in this case, the case law and discussion related in those sections suggest that an indefinite continuance at this stage is not appropriate.

After that ruling was made, there was a discussion of outstanding discovery matters, and a resolution was arrived at. The Administrative Law Judge would urge the parties to resolve their discovery disputes, but if they cannot do so, a telephone conference can be arranged on short notice in order to obtain a decision on any disputed questions.

AWK